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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Paul J. Clinton

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EXAMINER

WAGGENSPACK, ADAM J

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,770	<b>Applicant(s)</b> CLINTON ET AL.	
	<b>Examiner</b> ADAM WAGGENSPACK	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 9/6/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/6/06</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10, 16-17, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #6,338,428 to Kawasaki (Kawasaki). Kawasaki discloses:

With Respect to Claim 1

An elongated main body portion (2) including an open channel (center of pipe-shaped rail core 20, FIGS. 5-6); and an end portion (3, 4) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to a motor vehicle roof (FIGS. 1 and 2).

With Respect to Claim 10

An end cap (resin coating, FIG. 2) fixedly secured to each of said end portions for providing said roof rail with an aesthetically pleasing appearance.

With Respect to Claim 16

A mid-mount (5) secured to said main body portion at a location between the opposing first and second ends thereof for preventing deformation of said main body portion as a load is applied thereto.

With Respect to Claim 17

The mid-mount is integrally formed with said main body portion (FIG. 2).

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With Respect to Claim 22

An elongated main body portion (2) extending between opposing first and second ends (FIG. 2) and having a reinforcement structure (20) integrally molded therewith (FIGS. 20-21, 36-37 or 41-42); and an end portion (3, 4) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to a motor vehicle roof (FIGS. 1 and 2).

With Respect to Claim 23

The main body portion includes a pair of spaced apart outer walls and a connecting wall extending therebetween.

With Respect to Claim 24

The pair of outer walls and connecting wall define an open channel for housing said reinforcement structure therewithin (FIGS. 20-21, 36-37 or 41-42).

3. Claims 1 and 18-24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #5,765,737 to Cucheran (Cucheran). Cucheran discloses:

With Respect to Claim 1

An elongated main body portion (112) including an open channel (126) extending between opposing first and second ends (Col. 7 lines 19-24, FIG. 10); and an end portion (116) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to the motor vehicle roof (Col. 6 lines 28-31 and Col. 7 lines 1-18).

With Respect to Claim 18

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An elongated main body portion (112) including an open channel (126) extending between opposing first and second ends (Col. 7 lines 19-24, FIG. 10); an end portion (116) integrally formed with said main body portion at each of the first and second ends thereof for attaching said roof rail to the motor vehicle roof (Col. 6 lines 28-31 and Col. 7 lines 1-18); and a loop structure (opening labelled 40 in the first embodiment, and shown but unlabelled in the second embodiment in FIGS. 9, 11, and 12) integrally formed with at least one of the main body and end portions for providing a tie down point in order to secure articles to said roof rail (inasmuch as it is usable for this purpose).

With Respect to Claim 19

Each of the end portions includes a bottom wall (120) abutting the motor vehicle roof when the roof rail is secured thereto (FIGS. 9 and 11).

With Respect to Claim 20

The bottom wall of each end portion includes a plurality of roof mounting apertures (124).

With Respect to Claim 21

Each end portion includes an outboard wall (side walls of the end supports 116) connected to the bottom wall for supporting the loop structure (inasmuch as they would do so if the end portion were lifted off of the roof rack).

With Respect to Claim 22

Cucheran above discloses an elongated main body portion (112) and end portions (116) as claimed; the main body portion having a reinforcement structure

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(internal rib between the channel 128 and the hollow area 126, FIG. 10) integrally molded therewith.

With Respect to Claim 23

The main body portion includes a pair of spaced apart outer walls (top and bottom of the main body portion 112) and a connecting wall (right side wall shown but unlabelled in FIG. 10) extending therebetween.

With Respect to Claim 24

The pair of outer walls and connecting wall define an open channel for housing said reinforcement structure therewithin (FIG. 10).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cucheran as applied to claim 1 above, and further in view of Kawasaki.

With Respect to Claim 2

Cucheran discloses that the main body portion is injection molded (Col. 2 lines 56-58); and that various plastics could be used (Col. 5 lines 43-44); but does not disclose the use of an organic resin material reinforced with long glass fibers.

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However, Kawasaki discloses that it is known to make parts of a roof rail out of polypropylene (Col. 8 lines 1-5) which is an organic resin material, reinforced with long glass fibers (Col. 8 lines 1-5).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use polypropylene reinforced with glass fibers as taught by Kawasaki, as a mere selection of an art known plastic to use for the main body portion and end portions of Cucheran, or alternately as a mere substitution of one art known material for another.

With Respect to Claim 3

The organic resin material is a thermoplastic material (polypropylene).

With Respect to Claim 4

The main body portion includes a pair of spaced apart outer walls and a connecting wall extending therebetween defining said open channel (Cucheran FIG. 10).

With Respect to Claim 5

The main body portion is generally C-shaped (Cucheran FIG. 10).

With Respect to Claim 6

The thermoplastic material is polypropylene.

With Respect to Claim 7

The polypropylene is reinforced with approximately 20% to 40% by weight long glass fibers (Kawasaki Col. 8 lines 5-9).

With Respect to Claim 8

The long glass fibers in said roof rail have a length of approximately 4-50 mm (Kawasaki Col. 8 lines 5-8).

With Respect to Claim 9

The polypropylene is reinforced with approximately 40% by weight long glass fibers (Kawasaki Col. 8 lines 5-9).

With Respect to Claim 10

An end cap (118) fixedly secured to each of said end portions (inasmuch as they are integrally molded together) for providing said roof rail with an aesthetically pleasing appearance.

With Respect to Claim 12

Said end cap is integrally formed with each of said end portions for providing said roof rail with an aesthetically pleasing appearance (Cucheran FIG. 11).

With Respect to Claim 13

Each end portion includes a bottom surface (120) and an outboard wall (118) extending upwardly therefrom.

With Respect to Claim 14

The bottom surface includes a plurality of mounting apertures (124) extending therethrough (Cucheran FIG. 11).

With Respect to Claim 15

Each of the end portions includes a loop structure (opening labelled 40 in the first embodiment of Cucheran, and shown but unlabelled in the second embodiment of



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Cucheran in FIGS. 9, 11, and 12) for providing a tie down point in order to secure articles to said roof rail (inasmuch as it is usable for this purpose).

With Respect to Claim 16

Cucheran in view of Kawasaki as applied above does not disclose a mid-mount as claimed.

However, Kawasaki discloses that it is well known in the art to use a center support because roof rack rails are long and relatively slender with the length significantly long in relation to the center sectional area (Col. 3 lines 10-17).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a center support as taught by Kawasaki to the roof rail of Cucheran, in order to provide additional support to the long main body of the roof rail.

With Respect to Claim 17

Cucheran in view of Kawasaki as applied above does not disclose that the mid-mount is integrally formed with said main body portion.

However, Cucheran discloses that the other mounts (116) are integrally formed with the main body portion (112), and that this construction allows for there to be no visible mold lines, seams, or other marks at the junctions of the components, manufacturing from a single injection molding tool, and for the side rail to be more quickly and easily assembled to the outer body surface of the vehicle (Col. 2 lines 52-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention to form the mid-mount using the same method as the remaining portions of

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the rail, in order to connect the parts without visible mold lines, seams or other marks, to manufacture the side rail from a single injection molding tool, and to allow the side rail to be more quickly and easily assembled to the outer body surface of the vehicle as taught by Cucheran.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cucheran in view of Kawasaki as applied to claim 10 above, and further in view of U.S. Patent #5,573,159 to Fisch (Fisch).

With Respect to Claim 11

Cucheran in view of Kawasaki does not disclose a clip for connecting an end cap to one of the end portions (116).

However, Fisch discloses a cover cap (8) that is mounted to a support foot (2) of a roof rail using a clip (11) in order to make the roof rail more stylistically attractive (Col. 1 lines 57-60).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add a cover cap (8) as taught by Fisch to the roof rail of Cucheran in view of Kawasaki in order to make the roof rail more stylistically attractive, and to mount it using a clip (11) as taught by Fisch.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent #6,179,179 discloses a tie down loop integrally formed with a wall of a roof rail; and U.S. Patent #5,518,157 discloses strengthening ribs having openings for fastening elements.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM WAGGENSPACK whose telephone number is (571)270-7418. The examiner can normally be reached on M-F 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./  
Examiner, Art Unit 3782

/Justin M Larson/  
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9/27/10